

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7367

BILL NUMBER: HB 1004

NOTE PREPARED: May 5, 2011

BILL AMENDED: April 29, 2011

SUBJECT: State and Local Administration.

FIRST AUTHOR: Rep. Turner

FIRST SPONSOR: Sen. Hershman

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *State Income Taxes-* The bill decreases the Corporate Adjusted Gross Income Tax rate from 8.5% to 6.5% over four years.

The bill provides that the Adjusted Gross Income Tax and Financial Institutions Tax (for investment companies) apply to interest on state and local bonds that are issued by a state other than Indiana, or a political subdivision of such a state, and that are acquired by the taxpayer after December 31, 2011.

The bill sets certain state income tax credits to expire.

The bill increases the maximum amount of income tax credits available under the Venture Capital Investment (VCI) Tax credit from \$500,000 to \$1 M. It extends from 2013 to 2015 the end date for investments eligible for the VCI tax credit. It also suspends, for two years, the application fee for applicants seeking certification for the venture capital investment tax credit.

The bill eliminates the carryback of net operating losses under the adjusted gross income tax.

The bill revises the attribution rules applicable to business income and sales receipts from certain intangibles under the adjusted gross income tax.

The bill eliminates an advanced earned income tax credit.

The bill extends the time in which a person must file an amended Indiana adjusted gross income tax return to reflect modifications made in a federal income tax return.

The bill removes outdated individual income tax adjustments.

Slot Machine Wagering Tax- The bill provides that the graduated slot machine wagering tax applies to 99% of the adjusted gross receipts received beginning July 1, 2012.

Sales Tax- The bill provides that a claim for a sales tax refund must be filed within 18 months if the claim is based on the predominant use of electrical energy, natural or artificial gas, water, steam, and steam heat by certain businesses or based on the sales tax exemption for these services or commodities.

Tobacco Taxes- The bill provides that the tobacco products tax on moist snuff is based on the weight of the moist snuff and calculated at the rate of \$0.40 per ounce.

The bill provides that for purposes of determining state minimum cigarette prices, the cost of doing business is presumed to be 10% of the basic cost of cigarettes.

Other State Tax Provisions- The bill prohibits the department of state revenue from taking an action to collect a protested listed tax until the later of the time to file a tax appeal has expired or a final decision is made in a tax appeal.

The bill provides that when a tax warrant is filed in error, the warrant is to be removed from the judgment record.

Economic Development- The bill makes the Economic Development Study Committee a four-year committee that expires December 31, 2014, and provides for certain studies.

The bill requires the Indiana Economic Development Corporation (IEDC) to collaborate with local economic development organizations and submit an annual report to the study committee regarding collaboration.

The bill requires the State Board of Education, the Commission for Higher Education, and the Department of Workforce Development to work together to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.

The bill requires the IEDC to conduct a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana.

The bill requires higher education institutions to expand technology and innovation commercialization programs.

The bill provides that in the case of a county that becomes a member of a regional development authority (other than the Northwest Indiana Regional Development Authority) after June 30, 2011, and before July 1, 2013, the county may impose an additional county economic development income tax at a rate of 0.025% (rather than 0.05%, under current law).

The bill extends the time in which the city of Marion, a second class city, or the city of Westfield may establish a professional sports development area.

The bill removes and repeals restrictions on activating a third Community Revitalization Enhancement

District (CRED) in Delaware County and claiming tax credits for investments in the third district. It provides new criteria for designating a CRED after 2010.

The bill permits local governments to pledge revenue from the county adjusted gross income tax (CAGIT) and the county economic development income tax (CEDIT) for redevelopment financing.

Property Tax- The bill specifies when a standard property tax deduction shall be granted for an individual's homestead when the individual's spouse maintains a separate principal place of residence in another state.

The bill requires a county auditor who determines that a property is ineligible for the standard deduction to inform the property owner of the county auditor's determination in writing.

The bill allows counties that are more than two years behind on issuing tax bills to petition the Department of Local Government Finance (DLGF) to postpone the deadline for paying the first installment on a 2011 provisional property tax statement.

The bill extends the time for amending a personal property tax return and provides for a reduction in a refund or credit based on the time of filing.

The bill provides that the circuit breaker credit and certain property tax deductions are to be allowed in the year of a property transfer if the property is determined to be exempt in the year following the transfer year.

The bill allows the DLGF to cancel any property taxes assessed against real property owned by a local port authority.

The bill prohibits the DLGF from approving a budget until a taxing unit files a financial report with the state board of accounts in the immediately preceding year.

The bill corrects a reference to the date of the 2015 general reassessment.

The bill establishes a procedure for a taxpayer to appeal an error in a circuit breaker or other property tax credit.

The bill changes the methodology for certain property tax levy and rate determinations after a reassessment.

The bill allows a county treasurer to include a statement of delinquent taxes and special assessments, interest, and penalties on a provisional statement or reconciling statement.

The bill specifies that the full amount of property taxes imposed after being approved in a referendum shall be deposited in the fund for which the property taxes were imposed without reduction for the circuit breaker credits granted to taxpayers.

The bill provides that when assessed value is increased by more than 5% over the assessed value for the immediately preceding assessment date, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct. The bill repeals certain provisions concerning civil government property tax controls.

The bill provides an exception to the confidential nature of information regarding an oil or gas interest for

tax sale purposes.

The bill requires an assessing official to make available certain information necessary to properly identify and determine the value of an oil or gas interest that is eligible for tax sale.

The bill allows adjustments to the levies of certain local units.

The bill provides that property taxes on property consisting primarily of onsite regulated amusement devices and related improvements may be allocated for purposes of tax increment financing (TIF).

The bill removes the requirement that the IEDC approve enlargements of tax increment financing districts.

The bill allows certain nonprofit taxpayers that failed to timely file for property tax exemptions to file for the exemptions if certain conditions are satisfied.

The bill specifies a maximum levy for the school bus replacement fund.

The bill provides that a school corporation's capital projects plan and school bus replacement plan must be adopted before November 1.

Other Local Tax Provisions- The bill deletes the prohibition for the Wabash River Enhancement Corporation from using any of its Tippecanoe County innkeeper's tax distributions for employee salaries or other ongoing administrative or operating costs.

The bill changes the Lake County innkeeper's tax to add members to the convention and visitor bureau in Lake County, to specify that the tax applies to the renting or furnishing of rooms for periods of less than 30 days and by the same party in the same room, to authorize the deposit of innkeepers' tax revenue into funds established by the convention and visitor bureau, and to change the budget and financial reporting deadline.

The bill changes the membership of the Clark County and Floyd County special funds board of managers, specifies that the open door and public record laws apply to the board of managers, and requires the publication of financial information and an annual report.

The bill provides that recipients of Clark County and Floyd County innkeeper's tax revenues are required to submit a report to the board of managers when requested by the board of managers.

The bill authorizes the county council of White County to increase the county's innkeeper's tax rate to not more than 5% to be used to promote conventions, tourism, and economic development in the county.

The bill extends the Nashville food and beverage tax to 2022.

The bill legalizes an ordinance of a county adopted after December 31, 2006, and before February 1, 2007, that implemented a licensing system for dogs despite the fact that the county did not first adopt the county option dog tax.

The bill provides that a fire department, volunteer fire department, or emergency medical services provider may apply to the county to receive a distribution of the public safety local option income tax (LOIT) tax revenue before the remainder of the tax revenue is distributed to the county and to the municipalities in the

county.

The bill specifies that a municipality is entitled to receive a distribution of public safety LOIT revenue only if the municipality is providing public safety services.

Government Transparency Provisions- The bill requires the Auditor of State to work with the Office of Technology and other state agencies to post on the Indiana transparency Internet web site a data base of state expenditures and fund balances and property owned by the state. The bill requires information concerning local governments and local schools to be on the web site.

The bill specifies that the state and state officers, officials, and employees are immune from liability for posting confidential information if the information was posted in reliance on a determination by a state agency.

The bill requires the Commission for Higher Education to establish a web site where members of the public may view financial and other reports to a state agency that are public records.

Fire Protection Territories- The bill indicates that the delivery of services through a fire protection territory is not considered a municipal service for zoning outside the boundaries of the municipality.

The bill specifies that a member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to join or establish a fire protection territory if that member is also an employee of a participating unit or of another unit that is proposing to become a participating unit.

The bill specifies that different tax rates may be levied for the participating units included within the territory.

The bill specifies additional actions in order to become part of a fire protection territory and sets these additional requirements to expire on July 1, 2012.

The bill requires the DLGF to review the tax rates and levies for each fire protection territory that is located in Hancock County and consider adjusting tax levies for participating units and whether different tax rates for fire protection services should be applied for the participating units included within the territory.

Public Works Projects- The bill increases the cost of projects that may be performed without awarding a public works contract.

The bill requires certain public works contract provisions for a public works project of more than \$1 M.

The bill specifies notice and public meeting requirements that must be satisfied in certain circumstances before a public work project may be performed by the workforce of a municipality, county, state agency, or state educational institution.

The bill adds requirements for examination reports prepared by the State Board of Accounts (SBOA) concerning certain public work projects. It also increases the cost threshold at which bids and quotes are required under the local public works statute.

The bill provides a price preference to local Indiana businesses bidding on purchasing and public works

contracts awarded by political subdivisions.

Other Provisions- The bill raises the maximum amount of public funds that a nonprofit corporation may spend and be subject only to a limited audit of the expenditures of the public funds from \$100,000 to \$200,000.

The bill permits a person who received an overpayment of unemployment compensation to repay the excess over 36 months.

The bill requires a nonprofit hospital to file its annual community benefits plan with the State Department of Health at the same time the nonprofit hospital files its annual information return with the Internal Revenue Service.

The bill amends a provision added by SEA 1-2011 and amended by HEA 1001-2011 and also amends a provision added by HEA 1003-2011 and amended by HEA 1001-2011.

The bill requires the Office of Management and Budget and the Commission on State Tax and Financing Policy to study certain topics.

The bill requires the Legislative Council to assign an interim study committee to study which state agency should control dangerous alcohol products.

Effective Date: Upon passage; January 1, 2009 (retroactive); January 1, 2010 (retroactive); January 1, 2011 (retroactive); March 1, 2011 (retroactive); May 15, 2011 (retroactive); July 1, 2011; October 1, 2011; January 1, 2012.

Explanation of State Expenditures:

State Tax Provisions- *Department of State Revenue (DOR):* The Department of State Revenue will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes made by the bill. The bill would also increase administrative expenditures by the DOR by requiring the DOR to adopt rules to establish standards for granting monetary allowance to certified service providers and sellers. The bill contains several clarifications or cleanup provisions that have minimal or no impact. The DOR's current level of resources should be sufficient to implement these changes.

Venture Capital Investment (VCI) Tax Credit Application Fee: This bill suspends the VCI tax credit application fee of \$200 for FY 2012 and FY 2013. On average, the amount collected annually from the application fee is about \$9,000. Because this fee is included in the IEDC's operating budget, they will experience a decrease in funding. Since CY 2003, the IEDC has collected \$68,800 in application fees.

Economic Development - Interim Study Committee on Economic Development: The bill establishes the Interim Study Committee on Economic Development for four years until the end of 2014. The Committee will consist of 17 members as follows: two Senators, two Representatives, the CEO of the Indiana Economic Development Corporation (IEDC) or the CEO's designee, four members appointed by the Governor, four members appointed by the President Pro Tempore of the Senate, and four members appointed by the Speaker of the House of Representatives. During the 2010 interim, the Legislative Council provided \$16,500 budgets for interim study committees with 16 or more members, including for the Interim Study Committee on Economic Development which was structured the same as in this bill. The Committee held two meetings in

Indianapolis, one meeting in Anderson, and one meeting in West Lafayette at a total cost of \$6,355.

The Committee is to operate under the policies governing study committees adopted by the Legislative Council. The Committee must issue a final report before November 1st each year to the Legislative Council containing any findings and recommendations of the Committee.

IEDC Reports and Studies: The bill requires the IEDC to collaborate with local economic development organizations and submit an annual report to the Interim Study Committee on Economic Development concerning collaborative efforts. The IEDC is also required to conduct a statewide study to determine economic sectors that should be emphasized within geographic regions in Indiana. These provisions may increase expenses for the IEDC, but should be able to be accomplished within the IEDC's existing resources.

Entrepreneurship Education Programs: The bill requires the State Board of Education, the Commission for Higher Education (CHE), and the Department of Workforce Development (DWD) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force. This provision should be able to be accomplished within the existing resources available to the State Board of Education, the CHE and the DWD.

Technology and Innovation Commercialization Programs: This bill requires higher education institutions to expand technology and innovation commercialization programs. State educational institutions may need to reallocate resources from other programs or areas to meet this requirement.

Property Tax - Property Tax Credit Appeals: Under this provision, the Indiana Board of Tax Review (IBTR) would be required to hear appeals regarding property tax credits. The IBTR's caseload could increase under this provision.

TIF: Under this provision, the IEDC would no longer have to approve enlargements of TIF areas. The IEDC could redirect any resources that are currently being used for this function.

Government Transparency Provisions - Access to State and Local Financial Data: This bill requires the Auditor of State, working with the Office of Technology and the Office of Management and Budget, to post a listing of state expenditures, fund balances, and real and personal property owned by the state with values greater than \$20,000 on the Indiana Transparency Portal. The bill also requires the Commission for Higher Education to establish a website that includes the following information for all state educational institutions: audited financial statements; comparisons between appropriations and allotments for expenditures; information concerning outstanding debt; and all financial and other reports that are public records. The portal currently provides a link to a search tool for state contracts, grants, and leases, and an expenditure search tool by state agency. Any additional expense resulting from this bill should be minimal because the Auditor of State and Office of Technology are already working to provide access to state financial data through the Indiana Transparency Portal.

The bill also requires that financial data attributable to public schools and political subdivisions be provided on the Indiana Transparency Portal. The bill specifies that the Department of Education and the Department of Local Government Finance will work with the Office of Technology, the State Board of Accounts, and the Office of Management and Budget in compiling the information needed for the database.

All other state agencies and state educational institutions should not be significantly affected because the bill does not require a state agency or state educational institution to record information or expend resources for

the purpose of computer programming to make information reportable. The bill does require state agencies to cooperate with the Auditor and provide the information necessary for the Auditor to compile the database. It is estimated that all state agencies currently have the information needed for the database.

Fire Protection Territories - Review of Tax Rates: The bill directs the Department of Local Government Finance (DLGF) to review the tax rates and levies for each fire protection territory in Hancock County. The DLGF would also determine whether different tax rates should be applied for the participating units within the territory.

As this particular provision is scheduled to expire on June 30, 2012, the DLGF could accomplish this task during the approval process for pay 2012 budgets. The budget, tax levies and tax rates of Hancock County have already been approved for 2011, so a review of these tax rates would create an additional workload for the DLGF.

Public Works Projects - Costs of Projects: Under current law, the Department of Natural Resources (DNR) and the Department of Administration (DOA) may use their own workforce if the estimated cost of a project is less than \$75,000. The DOA is also authorized to either use the sealed bid process or invite quotes from three or more contractors if the project cost is less than \$75,000; the sealed bid process must be used if the project is estimated to cost at least \$75,000.

This bill increases the limit from \$75,000 to \$150,000 for the DOA and DNR to use their own workforce. The DOA would be authorized to invite quotes from three or more contractors or use the sealed bid process for projects that cost less than \$150,000; the sealed bid process would be used if the project is estimated to cost at least \$150,000. This change could increase the number and types of projects that the DOA and DNR agencies could complete using their own workforce. This could reduce their expenditures to the extent that they would not need to contract for additional outside services. For example, DNR's seasonal work cycle would allow staff to complete construction projects during winter months when public visitation to its properties is minimal.

Additionally, for those projects that cost between \$75,000 and \$150,000, the DOA would save on administrative expenses if the agency chooses to invite quotes from contractors instead of using the sealed bid process. In 2010, DNR bid 8 projects totaling \$822,618 that were in the cost range of greater than \$75,000 but less than \$150,000. In 2009 DNR bid 6 projects totaling \$648,776 in the same cost range. In 2008 DNR bid 7 projects totaling \$803,675 that were in the cost range.

If the public works project is estimated to cost more than \$100,000 and DOA plans on using its own workforce, it would incur the costs of publishing the notices and administering the public meetings. This would be offset by the potential savings in having projects completed by its own workforce.

Retention of Payments: Under current law, the Public Works Division of the DOA is required to include as part of a public works contract provisions for withholding a portion of the payments to the contractor if the estimated cost of the project is more than \$150,000. The money is to be placed in escrow to be used to pay subcontractors and suppliers. This bill increases the limit to \$1 M before any withholding is required. This may increase the number of bids for projects whose estimated cost is between \$150,000 and \$1 M.

State Educational Institutions: Under current law, if a public works project is estimated to cost more than \$25,000, the sponsoring state agency has to adopt plans and specifications, and award a contract to perform the work under a sealed bid process after advertising for bids. However, if the estimated cost of the project

is less than \$50,000, a state institution of higher learning may either use its own workforce to complete the project, or invite bids from at least three contractors.

This bill raises the threshold for a state institution, either using its own workforce or inviting bids, from \$50,000 to \$150,000. The institution is forbidden from dividing a project into smaller projects in order to complete it using its own workforce. If the institution chooses to use its own workforce, this would increase the number and types of projects that could be completed under this provision. This could reduce expenditures because the institution would not have to contract for additional outside services. On the other hand, if the institution decides to contract out the work, this would reduce the administrative expenses (by forgoing the sealed bid process) for those projects between \$50,000 and \$150,000.

If the project is estimated to cost more than \$100,000 and the state educational institution plans on using its own workforce, it would have to publish a notice and hold a public hearing to discuss the project. It would incur the costs of publishing the notices and administering the public meetings. This would be offset by the potential savings in having projects completed by its own workforce.

Purdue University: Current law permits Purdue University to invite bids from three or more contractors (instead of using the more extensive sealed bid process) if the project is on agricultural or forestry land owned or occupied by the university, and is estimated to cost less than \$50,000. This bill would raise the limit to \$200,000. This would reduce the administrative expenses for those projects estimated to cost between \$50,000 and \$200,000.

Other Provisions - State Board of Accounts (SBOA): The bill raises the maximum amount of public funds that a nonprofit corporation may spend and be subject only to a limited audit of the expenditures of the public funds from \$100,000 to \$200,000. This could reduce the administrative cost of auditing nonprofit corporations by the SBOA.

Department of Education (DOE): The bill affects changes made by HEA 1001-2011 to the school scholarship program authorized under HEA 1003-2011. HEA 1001-2011 required DOE to annually make random visits to schools and charter schools with school scholarship students. The bill requires DOE to make random visits to at least 5% of these schools each year. The administrative impact of this change is indeterminable.

Commission on State Tax and Financing Policy: This bill requires the Commission on State Tax and Financing Policy to study the following topics during the 2011 interim:

- (1) issues related to fire protection territories;
- (2) all aspects, including the advantages and disadvantages, of phasing out the state Inheritance Tax;
- (3) issues related to township assistance provided in Calumet Township in Lake County, including any effects on taxpayers in the town of Griffith;
- (4) whether commercial rental property should for property tax purposes be valued by using the lowest valuation determined by applying each of the appraisal approaches used for determining the assessed valuation of residential rental property under IC 6-1.1-4-39;
- (5) issues related to periodic or "rolling" reassessment;
- (6) whether a tax incentive for logistics and homeland security expenditures will provide a net gain in tax revenue and investment in Indiana;
- (7) methods for eliminating or reducing the personal property tax statewide and the appropriateness of allowing local governments the option of eliminating or abating personal property tax, including the authority to offer deductions or exemptions for new investment and economic development purposes;
- (8) differences between the eligibility of nonprofit entities for federal income tax exemptions and the

eligibility of nonprofit entities for Indiana property tax exemptions;
 (9) issues related to sales tax holidays; and
 (10) Internet sales and taxation.

The Commission must report its findings and any recommendations to the Legislative Council before November 1, 2011. The Commission on State Tax and Financing Policy is a statutory committee. As with other interim committees, the Legislative Council provides funding to the Commission for per diem, mileage, and travel expense reimbursement for Commission members. The Commission, like other interim study committees, is staffed by the Legislative Services Agency.

Earned Income Tax Credits and Medicaid Fraud Studies: This bill requires the Office of Management and Budget (OMB) with the assistance of the DOR and the Family and Social Services Administration to conduct a study and prepare a report about issues relating to earned income tax credits and Medicaid fraud. The study must be provided to the Commission on State Tax and Financing Policy. The OMB's current level of resources should be sufficient.

Explanation of State Revenues:

State Income Taxes & Slot Machine Wagering Tax - Summary: The bill: (1) reduces the Corporate Adjusted Gross Income (AGI) Tax rate from 8.5% to 6.5% in 0.5% increments over four years beginning in FY 2013; (2) eliminates the exclusion for interest income from state and local bonds (other than Indiana state and local bonds) acquired after December 31, 2011; (3) eliminates certain tax credits beginning in CY 2012; (4) extends the venture capital investment (VCI) tax credit for two years until December 31, 2014 and increases the maximum credit amount per taxpayer; and (5) reduces the taxable base for the state slot machine wagering tax by 1% beginning in FY 2013. The net revenue impact to the state General Fund due to these changes is reported in the table below. The revenue loss estimated for the corporate AGI tax rate reduction and the slot machine wagering tax deduction are based on the Revenue Technical Committee forecast updated April 15, 2011.

Provision	Net Impact (in millions \$)		
	FY 2013	FY 2014	FY 2015
Corporate AGI Tax Rate Reduction	(18.4)	(37.9)	(58.6)
Elimination of Municipal Bond Interest Exclusion	11.9	25.3	38.6
Tax Credit Elimination	0.4	0.4	0.4
VCI Tax Credit Extension	0.0	(12.5)	(12.5)
Slot Machine Wagering Tax Deduction	(1.4)	(1.4)	(1.5)
Total	(7.4)	(26.2)	(33.6)

Corporate AGI Tax Rate Reduction - The Corporate AGI Tax rate reduction would be phased in as specified in the table below. The revenue loss from the rate reduction is estimated to begin in FY 2013 as corporate taxpayers change their quarterly estimated payments.

Fiscal Year	Corp. AGI Tax Rate
2012	8.5%
2013	8.0%
2014	7.5%
2015	7.0%
2016 and after	6.5%

Elimination of Municipal Bond Interest Exclusion - The elimination of the exclusion of interest income from state and local bonds (except those issued by Indiana or Indiana local governments) would affect revenue from: (1) the individual AGI tax; (2) the corporate AGI tax; and (3) the financial institutions tax (FIT) as it applies to investment companies. (Note: Under current statute, financial institutions other than credit unions and investment companies pay FIT on interest from state and local bonds, including Indiana state and local bonds.) Since this is effective beginning with bonds initially purchased by the taxpayer after December 31, 2011, the revenue gain is estimated to begin in FY 2013 and would not affect all interest earnings on state and local bonds. The estimated revenue gain is based on the percentage of total state and local debt each year that is attributable to debt issued during that year beginning with 2012. Newly issued debt would, by definition, meet the initial purchase requirement. The revenue gain would be higher to the extent that debt issued prior to 2012 might otherwise be purchased initially by a taxpayer in 2012 or after, for instance, by purchase of shares in a bond or other investment fund.

Tax Credit Elimination - The bill sunsets the following four income tax credits: (1) the teacher summer employment compensation credit; (2) the maternity home tax credit; (3) the credit for employers offering health benefit plans; and (4) the small employer qualified wellness program credit. The average annual total credits claimed under these tax credits during 2006, 2007, and 2008 was about \$0.4 M.

Venture Capital Investment (VCI) Tax Credit - The bill: (1) extends the VCI tax credit by two years by changing the current expiration date from December 31, 2012, to December 31, 2014; and (2) increases the maximum amount of VCI tax credits available for one taxpayer from \$500,000 to \$1 M beginning in tax year 2011.

The extension of the VCI tax credit would allow the IEDC to award up to \$12.5 M annually in new tax credits for two additional years beginning in tax year 2013. The increase in the maximum credit amount per taxpayer should not directly impact state revenue because of the annual cap of \$12.5 M; it could affect the amount of tax credits claimed over the six-year period. If a taxpayer is able to use more of their tax credit amount for the first applicable tax year, then the timing of when credits are claimed could be impacted. Increasing the maximum tax credit amount will also affect how many taxpayers may receive tax credit awards. For example, 12 taxpayers could receive a maximum tax credit amount of \$1 M instead of 25 taxpayers receiving a maximum tax credit amount of \$500,000. This change would also benefit larger projects that are not currently eligible for the tax credit by increasing the maximum amount of venture capital investment eligible for the 20% tax credit from \$2.5 M to \$5 M.

State income tax return data for individuals indicates that about \$3.3 M in VCI tax credits was claimed by 490 individuals in tax year 2008. In 2007, about \$3.8 M was claimed by 430 individuals. No VCI tax credits were claimed by corporate taxpayers for tax years 2007 and 2008.

Slot Machine Wagering Tax - The bill reduces the taxable base for the state slot machine wagering tax by 1% beginning in FY 2013. Under the bill, the tax would be based on 99% of the slot machine adjusted gross receipts (AGR) beginning in FY 2013, instead of the current 100% AGR basis.

Other State Income Tax Provisions - Net Operating Loss (NOL) Carryback: The bill eliminates carry back of NOL by individual and corporate taxpayers beginning in tax year 2012. Current statute allows taxpayers to carry back losses for two years. This change could potentially reduce carry back usage in the long run by business taxpayers, provided they are not able to deduct as much NOL over time without carry back. More likely, this change will not increase the amount of income tax paid in the long run by businesses with NOL, since NOL not deducted in the year it is incurred could still be carried forward for 20 years. However, eliminating carry back of NOL would prevent business taxpayers from using NOL incurred during recessionary periods to obtain immediate refunds by amending returns and deducting these NOL amounts against tax liabilities for the year or two immediately preceding the recession. Available data on annual NOL claims does not distinguish between carry back amounts and carryforward amounts. From 2000 to 2008: (1) NOL deductions by individual taxpayers ranged from \$202.6 M in 2006 to \$432.5 M in 2008; and (2) NOL deductions by corporate taxpayers ranged from \$655.0 M in 2001 to \$9,688.6 M in 2006.

Attribution of Business Income to Indiana: The bill clarifies the attribution rules applicable to business income and sales receipts from certain intangibles under the adjusted gross income tax in lieu of current statute that provides specific conditions under which income and receipts from intangible property are attributable to Indiana. The provision responds to the Tax Court's decision in *Riverboat Development, Inc. v. Indiana Department of State Revenue* (Cause No. 49T10-0506-TA-52), February 22, 2008. In this case, the Tax Court decided that income received by a non-Indiana pass through entity from its interest in an Indiana pass through entity is, under current statute, not taxable income for purposes of the adjusted gross income tax. Under the provision, it is expected that income in such circumstances would be attributable to Indiana and taxable under the adjusted gross income tax. This provision could potentially prevent additional revenue loss under current income attribution rules. The amount of revenue loss that might be prevented is indeterminable.

Advance Earned Income Tax Credit (EITC): The bill eliminates the income tax withholding provision that allows a taxpayer to receive an advance refund of the EITC beginning in 2011. The advance EITC allows a taxpayer who qualifies for the EITC and has at least one qualifying child to receive part of the credit in each paycheck during the year via reduced Indiana income tax withholdings. This change will not impact the revenue loss from the EITC, as amounts formerly obtained through the advance refund feature would simply be claimed when the taxpayer files his or her tax return. The federal advance EITC was eliminated beginning in 2011 under the *FAA Air Transportation Modernization and Safety Improvement Act of 2010* (P. L. 111-226). From 2003 to 2008, the number of filers receiving the advance EITC ranged from 160 to 549, with the advance EITC amount ranging from \$21,882 to \$71,229. In 2008, a total of 480,544 filers claimed the EITC with credits claimed totaling \$58.9 M.

Sales Tax - Sales Tax Exemption for Utility Expenditures: Under current statute, transactions involving electrical energy, natural or artificial gas, water, steam and steam heat are exempt from Sales Tax if the person acquiring the energy uses it in the direct production of goods. The bill provides that a refund claim based on this exemption may not cover transactions that occur more than 18 months before the date of the refund claim. By restricting the time period that refunds could be claimed, this bill could potentially result in an indeterminable decrease in the amount of Sales Tax refunds claimed. However, any impact is expected to be minimal.

Retail Merchant Certificate: The bill provides that the DOR may not renew a registered retail merchant certificate if the retail merchant is delinquent in remitting withholding taxes. This provision could lead to additional income tax collections. The magnitude of the impact is indeterminable but could be significant.

Tobacco Taxes - Tobacco Tax on Moist Snuff: This bill could have an indeterminable impact on Tobacco Products Tax revenue. Under current statute, all tobacco products are taxed at a rate of 24% of the wholesale price. The bill provides that the Tobacco Products Tax imposed on the distribution of moist snuff is based on the net weight of the moist snuff and calculated at a rate of \$0.40 per ounce. All tobacco products other than moist snuff will continue to be taxed at 24%.

The existing tax on snuff is based on the value of snuff. The amount of revenue collected depends on the changes in quantity sold and the price. This bill proposes a tax that is based only on the quantity sold; all moist snuff products would be taxed based on weight without regard to price. As a result, the incidence of tax would shift from higher-priced moist snuff to lower-priced snuff. It is unknown what impact this would have on the total amount of tax that would be collected on these products.

Minimum Cigarette Pricing: This bill provides that for purposes of determining state minimum cigarette prices, the cost of doing business by the retailer is presumed to be 10% (rather than 8%, under current law) of the basic cost of cigarettes. The ATC estimates that this provision could potentially increase the minimum price of cigarettes by \$0.10 per pack. There is no data available to determine how many retailers are currently selling cigarettes at the current minimum price that may be impacted by this increase. If the new minimum price ultimately increased the cost of cigarettes sold, there could be a reduction in cigarette tax revenue.

Economic Development - Delaware County Community Revitalization Enhancement District (CRED): The bill makes the following two changes relating to the Delaware County CREDs.

(1) The bill changes the limitation on the amount of incremental sales and income tax revenue that can be captured in the three Delaware County CREDs. Currently, Delaware County has three CREDs (Magna, ABB, and the BorgWarner plant), but current statute only allows two of the three to capture tax revenue up to \$1 M per year each. The bill changes this limit to \$2 M annually applicable to the combined revenue capture by all three CREDs. This change could potentially increase the annual revenue capture by the Delaware County CREDs provided that capture amounts would be less than \$2 M per year in any two of the CREDs. Distributions of captured tax revenue to the Magna CRED totaled \$77,227 in FY 2006; \$248,330 in FY 2007; \$299,829 in FY 2008; and \$247,228 in FY 2009. Revenue has not been captured by the ABB or the BorgWarner CREDs.

(2) The bill repeals a limit on the application of the CRED tax credit in the ABB and BorgWarner CREDs. Current statute provides that the CRED tax credit applies only to investment made in the CRED (ABB or BorgWarner) in which income and sales tax capture is allowed. The impact of this change is indeterminable.

New CREDs: The bill establishes local economic distress and site requirements that must be met for a new CRED to be established after December 31, 2010. Under the bill, an advisory commission on industrial development is prohibited from designating a CRED under current statutes allowing CREDs in specific local units, and a county or municipal council is prohibited from designating a CRED under current statutes allowing CREDs in first and second class cities, unless the body makes the following findings:

(1) The average selling price of homes in the county or municipality has declined by 14% over a one-year period within 4 years of the designation;

(2) The unemployment rate was at least 10.4% in a calendar month in the year preceding the designation;
 (3) The proposed CRED contains a site suitable for revitalization that: (a) has a vacant industrial building of at least 1.3 M square feet of space; (b) the building contains at least 80,000 square feet of office space; (c) the site contains a reinforced pad suitable for expansion of at least 200,000 square feet; (d) the site is serviced by a water treatment facility capable of treating all of the effluent discharged from the site; and (e) the site consists of at least 120 acres of land.

Professional Sports and Convention Development Tax Area (PSCDA): The bill: (1) extends the deadline in current law for a 2nd class city or the City of Marion to establish a PSCDA from January 1, 2005, to January 1, 2013; and (2) allows the City of Westfield to establish a PSCDA before January 1, 2013. New PSCDAs would be authorized to capture incremental revenue from the Sales Tax and Individual Adjusted Gross Income (AGI) Tax generated at the sports and convention facilities contained within the PSCDA. The limit on this revenue capture would be \$5 per resident of the city establishing the PSCDA. The revenue capture in both PSCDAs is allowed for 20 consecutive years. The number of new PSCDAs that might be established due to the deadline extension is unknown. The table below lists the 2nd class cities in the state.

2 nd Class Cities	
Anderson	Kokomo
Bloomington	Lafayette
Carmel	Marion
Columbus	Michigan City
E. Chicago	Mishawaka
Elkhart	Muncie
Evansville	New Albany
Fort Wayne	Richmond
Gary	South Bend
Hammond	Terre Haute

A PSCDA is a special zone in which certain state and local tax revenues attributable to the PSCDA are diverted and deposited into a special fund. The special fund is dedicated to capital improvements in the PSCDA. Currently, PSCDAs are operated under these statutes by Allen County, Evansville, and South Bend, and by Marion County under separate statutory authority.

Other Provisions - Overpayment of Unemployment Compensation: This bill permits an individual who received an overpayment of unemployment compensation to repay the excess over 36 months. The fiscal impact would be negligible.

Explanation of Local Expenditures:

Property Tax - Annual Reports: Under current law, each local governmental entity must file an annual financial report with the SBOA within 60 days after the close of the entity's fiscal year. These entities must also annually file a compensation report with the SBOA.

Under this provision, the DLGF would be prohibited from approving any local budget appropriation for a governmental entity until that entity files an annual fiscal report for the preceding year. Additionally, appropriations would not be approved for counties, cities, towns, and townships until a compensation report is filed. Without an appropriation, the entity could not spend any money. This provision would encourage more timely reporting from some governmental entities.

Other Local Tax Provisions - LOIT: Under current law, counties may adopt a property tax relief LOIT at a rate up to 1%. Revenue generated from a property tax relief LOIT must be used to provide homestead credits, property tax replacement credits for residential property owners, property tax replacement credits for all taxpayers, or any combination of the three. Under this bill, if any excess property tax relief LOIT revenue remains after the payment of all credits in the year, the excess amount must be placed in a dedicated account and must be used to provide credits in subsequent years.

Clark and Floyd County Innkeeper's Tax: The Clark and Floyd County Special Funds Board of Managers would have to produce an annual report before January 1, to be placed on a website maintained by the board of managers. The board would also have to annually publish a financial report containing the income and expenses of the board of managers. The financial report must be published in a newspaper twice, one week apart.

White County Commission & Promotion Fund: An increase of the current innkeeper's tax rate would require a commission to distribute a share of the innkeeper's tax revenue for economic development or the convention, visitor, and tourism industry in White County. Commission members would be reimbursed for necessary expenses for performing their duty. Expenditures recommended by the commission could only be made from the Promotion Fund in accordance with county fiscal body appropriation.

Wabash River Enhancement Corporation: This provision would allow the Wabash River Enhancement Corporation (WREC) to use its share of Tippecanoe innkeeper's tax revenue for WREC employee salaries and ongoing administrative/operating costs of the WREC. Current law does not allow for the revenue to be used for salary or operating costs of the WREC.

Lake County Lake County Innkeeper's Tax: This provision would allow the Lake County Convention and Visitors Bureau (CVB) to pay for the promotion of conventions, trade shows, and other tourism endeavors within Lake County from funds established by the CVB other than the CVB's "Promotion Fund". In addition, the bill would extend the annual report of disbursement of innkeeper's tax funds to April 15th. The CVB, under current law, must have the report prepared by March 15. Secondly, the CVB would be able to prepare their annual budget for the following year before December 20. Current law requires the following year's budget to be prepared before September 1 of the prior year.

The number of members of the Lake County Convention and Visitors Bureau will increase from 15 to 19. The members of the Lake County Convention and Visitors Bureau serve without salary, but are compensated for necessary expenses incurred in performance of their duties and must swear oaths. The composition changes as follows.

Current Board	No.	Proposed Board	No.
Executives of the eight largest municipalities	8	Executives of the five largest municipalities	5
		Executives of the seven largest towns	7
Appointed by the legislative body of the two largest municipalities	2	Appointed by the legislative body of the two largest municipalities	2
County Council appointments	2	County council appointments (changes requirements to a resident of the 5 th largest city and a resident of the 8 th largest town)	2
County Commissioner appointments	2	County commissioner appointments (changes requirements to one resident of the 6 th largest town and one resident of the 7 th largest town)	2
Lieutenant Governor appointment	1	Lieutenant Governor appointment	1
TOTAL Members Current Board	15	TOTAL Members Proposed Board	19

Government Transparency Provisions - Access to Local Financial Data: The bill does require public schools and political subdivisions to cooperate with the Office of Management and Budget and provide the information necessary to compile the data base. Political subdivisions and public schools should not be significantly affected because the bill does not require them to record information or expend resources for the purpose of computer programming to make information reportable.

Fire Protection Territories (FPT) - Voting: Under this bill, a member of a legislative body would have to abstain from voting on a proposed ordinance or resolution authorizing the taxing unit to become a participating unit in a FPT if the member is also an employee of another participating unit in the FPT, or a taxing unit proposing to become a participating unit in the FPT.

Establishing a Fire Protection Territory: Under current law, the legislative body of each taxing unit desiring to participate in a FPT must hold a public hearing to receive public comment on the proposed ordinance or resolution. Until June 30, 2012, this bill directs the legislative body to hold an initial hearing before the resolution or ordinance can be adopted.

At this first hearing, the legislative body must make available to the public pertinent information on the proposed ordinance or resolution. This information must include the property tax levy, the property tax rate, the budget to be imposed during the first year of operation for each unit participating in the FPT, the estimated effect of the reorganization on future tax rates, levies, annual debt service, local option income taxes, excise taxes, and property tax circuit breaker credits, a description of planned services and staffing levels to be provided, and a description of any capital improvements to be provided in the proposed FPT. At the second hearing, the legislative body would receive public comment on the proposed ordinance or resolution.

Taxing units desiring to establish a FPT would incur costs of compiling data on proposed budgets, property taxes, levies, personnel, and infrastructure costs for their constituents. The taxing units would also incur additional administrative costs of scheduling a second public hearing.

Public Works Projects - Cost of Projects: The cost threshold for any political subdivision using its own workforce is increased from \$100,000 to \$150,000 (from \$50,000 to \$100,000 in the case of an aviation

board).

Under this bill, sealed bids would be mandatory only for projects that would cost at least \$150,000 (\$100,000 in the case of an aviation board), which is the same as under current law. For these projects there would be no fiscal impact.

If the estimated cost would be between \$50,000 and \$150,000 (between \$50,000 and \$100,000 in the case of an aviation board), the board would be permitted to choose between inviting quotes from at least three persons or using its own workforce; the option to use sealed bids would be discontinued. For these projects the fiscal impact would depend upon whether using its own workforce or requesting quotes from three or more persons would be more efficient than requiring sealed bids. The number of certain types of projects completed under this option could increase. This could reduce local expenditures to the extent that the local unit would not need to contract for additional outside services. The specific impact would vary from unit to unit. For projects under \$50,000 the board (or aviation board) would have the same options as under current law.

Notification - Political Subdivisions: If the project is estimated to cost more than \$100,000 and the county or municipality plans on using its own workforce, it would have to publish a notice and hold a public hearing to discuss the project. It would incur the costs of publishing the notices and administering the public meetings. This would be offset by the potential savings in having projects completed by its own workforce.

Local Indiana Business Price Preferences: The bill will have indeterminate impact on a public works project or purchasing contract of a local unit of government, potentially increasing costs. The purchasing preferences are awarded during the evaluation of bids and are a factor in determining who will be awarded contracts. The actual bid price does not change. As a result, a bidder with a bid higher than the lowest price may be accepted. The following preferences are included in the bill.

- (1) 5% for purchases less than \$50,000;
- (2) 3% for purchases at least \$50,000 but less than \$100,000; and
- (3) 1% for purchases expected to be at least \$100,000.

Other Provisions - School Performance Evaluation Plans: Under SEA1-2011, each school corporation, charter school including virtual charter school, school created by an inter-local agreement, special education cooperative, and joint career and technical education program has to develop a plan for annual performance evaluation for each certified employee. This bill extends the concept of a school corporation to include schools that require a student to pay tuition or transfer tuition to attend, are accredited by the state board or regional accreditation agency, and administer the ISTEP test. The cost would depend on local action.

Explanation of Local Revenues:

Income Tax - State and Local Bond Interest Exclusion: Eliminating the exclusion for interest income from state and local bonds (except those issued by Indiana or Indiana local government) would significantly increase taxable income. Consequently, some counties imposing local option income taxes could potentially experience a substantial increase in revenue from these taxes. Based on the current average LOIT rate of about 1.3%, LOIT collections on a statewide basis could potentially be increased as specified in the table below. The distribution of this revenue gain across counties is unknown.

State Fiscal Year	Revenue (in millions \$)
2013	2.4
2014	5.1
2015	8.1

Economic Development - Professional Sports and Convention Development Tax Area (PSCDA): New PSCDAs established under the bill would be authorized to capture incremental revenue from local option income taxes and the food and beverage tax generated at sports and convention facilities contained within the PSCDA.

Redevelopment Financing: This bill would allow local governments to utilize certified shares from CAGIT or distributions from CEDIT for redevelopment financing. Current statute allows distributive shares of the county option income tax (COIT) to be used for this purpose. Any impact would depend upon local action.

Regional Development Authorities: The bill provides that counties or municipalities forming regional development authorities during FY 2012 and FY 2013 will receive transfers equal to the amount that would be distributed from a CEDIT rate of 0.025%, and provides for an additional CEDIT rate of 0.025% for such counties. Current statute provides that members of regional development authorities will receive transfers equal to the amount that would be distributed from a CEDIT rate of 0.05%. Currently, the Northwest Indiana Regional Development Authority is the only regional development authority in Indiana.

Property Tax - Amended Personal Property Returns: Under current law, business personal property tax returns must be filed by May 15th of each year. The local assessor may grant an extension through June 14th. Taxpayers may also file an amended return within six months of the filing date or extended filing date if an extension was granted. Beginning with tax returns originally due on May 15, 2011, this bill would allow an amended return to be filed within the 12 months following the normal or extended filing date.

Currently, if an amended return is filed by July 15th, the tax bill payable in the following year reflects the updated values. If the amended return is filed after July 15th, the tax bill payable in the following year is based on the values reported on the original return. Overpayments, if any, are credited to the taxpayer's tax bill for the next tax year. If the credit amount exceeds the tax due, the remaining credit is applied to taxes due in the following year (the second year following the credit issuance). Credits remaining after the second year are refunded. Credits for overpayments reduce property tax collections in the year in which they are applied.

Under this bill, a credit that is less than \$25,000 would be applied entirely against the next tax bill with any excess refunded. Credits over \$25,000 would be applied over three years, if necessary, with any excess refunded in the third year.

Since current law already addresses the payment of taxes for amended returns filed after July 15th, the additional six months granted by this bill to file an amended return should have no impact on current year tax collections. If the longer amendment period encourages the filing of additional amended returns, then subsequent year tax collections could be affected. Under the bill, credits and refunds for amended returns filed more than 6 months after the filing (or extended filing) date would be subject to a reduction of 10%.

Also under the bill, interest payments on the credit amounts would not be required.

In addition, the three-year application period for overpayment credits that exceed \$25,000 could help to spread the credits (or collection reductions) over a longer period of time before a refund, if any, would have to be made.

Standard Deduction: Under current law, a county auditor may not grant a standard deduction to an individual or a married couple if the individual or couple is claiming the deduction on two or more applications.

Beginning with taxes payable in 2012 under this provision, an individual would qualify for the standard deduction even if their spouse claims a deduction on property not located in Indiana if the individual files an affidavit containing:

- 1) The names of the county and state in which the spouse claims a similar deduction; and
- 2) A statement under penalty of perjury that the individual and spouse maintain separate principal residences, that neither spouse has an ownership interest in the other's homestead, and that neither party has claimed a deduction for any property other than their principal residence.

The number of taxpayers who would be impacted by this provision is not known. This provision would result in a shift of a part of the tax burden from the affected individuals to all other taxpayers.

Transfer of Property to Exempt Entity: Under current law, a homeowner's property tax deductions do not apply to taxes payable in the following year if the property is sold after March 1st and by December 31st. If the buyer is a qualifying homesteader, the buyer's deductions are effective for taxes payable in the following year.

Beginning with taxes payable in CY 2012 under this bill, the residential deductions that belonged to the seller and the 1% circuit breaker cap for homeowners would continue for property taxes payable in the following year if the property is sold to a buyer that is granted a property tax exemption for the next assessment date.

The buyer is responsible for paying the property tax in the year after the sale even though the property will be tax exempt in later years. Currently, the tax amount that the buyer must pay in the year after the sale does not reflect the homeowner's deductions or the 1% cap, so the tax amount for that one year is higher than it was in previous years. Under this provision, the tax amount would be consistent with the prior year tax bill.

Property Tax Credit Appeals: Under current law, a taxpayer may file a petition to correct errors claiming that the taxes are illegal, or that there was a mathematical error in the assessment or that the taxpayer was not given credit for an exemption or deduction through a tax official's error. In addition, this bill would permit error correction of a circuit breaker credit or any other type of credit that is incorrect because of a tax official's error. Any correction of a credit under this bill would require approval from at least two of the following officials: The township assessor, county assessor, and county auditor. Taxpayers would be permitted to appeal any determination concerning property tax credits made by an assessing official or PTABOA to the IBTR.

Maximum Permissible Rates - Rate Controlled Funds: Under current law, the maximum tax rate for a rate-controlled fund, such as a cumulative fund, is adjusted each year to negate the effects of assessed value (AV) increases due to general reassessments or annual adjustments. When AV increases for these reasons, the rate is reduced so that the rate will produce the same tax amount on the same property. Beginning with taxes payable in CY 2012, this bill would increase the rate if the AV is *reduced* due to general reassessments or

annual adjustments. Currently, AV reductions cause a loss in tax revenue from the rate-controlled funds. Under this bill, the revenue would remain level.

Maximum Permissible Levies - Calculation Methodology: For civil taxing units that are not located in a CAGIT-adopting county, the unit's maximum levy for a year under current law is equal to the previous year's levy, plus one-half of the previous year's unused levy authority, all multiplied by the assessed value growth quotient (AVGQ). The AVGQ is equal to the six-year average increase in Indiana nonfarm personal income. There is also an adjustment of up to 15% for taxing units that have annexed new area into the unit. Taxing units whose AV is growing at a rate that is at least 2 percentage points above the statewide AV growth percentage may appeal for an increase in the calculated maximum levy.

The formula for civil taxing units that are located in a CAGIT-adopting county begins with the formula above but contains adjustments related to the portion of CAGIT revenue that is designated for property tax replacement.

Current law requires that the revenue from a 0.25% income tax rate be used in a CAGIT county as local property tax replacement credits (LPTRC) distributed to all civil taxing units and school corporations in the county. This bill does not change this requirement. The remaining CAGIT revenue after LPTRC distributions is distributed to the civil taxing units in the county as certified shares. Current law also requires that a portion of certified shares must be used to reduce the maximum levy. The portion of certified shares required to be used to reduce the maximum levy is based on the adopted CAGIT rate, the amount of certified shares used for levy replacement in the county's base year, the shares used in the previous year, and the amount received by the unit from federal revenue sharing in 1985.

This bill removes the requirement that part of certified shares must be used to reduce the maximum levy and all of the related calculations. For current CAGIT counties, the maximum levy limits under the bill would be based on prior maximum levies that already reflect the use of the certified shares to reduce the maximum levy and as a result would continue supplementing the levy with part of their certified shares. In the future, however, new CAGIT counties, if any, would not have this restriction on the use of certified shares. New CAGIT counties would still be bound by the requirement to use revenue from a 0.25% income tax rate as LPTRC. Counties that increase their CAGIT rate would not have restrictions on the use of the added certified shares.

There are 56 counties that have adopted CAGIT and 8 counties that do not currently impose CAGIT or COIT. The 8 nonadopting counties may adopt CAGIT at any time under current law. Fifty counties currently impose CAGIT at the 1% maximum rate, 4 counties impose a 0.75% rate, and 2 counties impose the tax at 0.50%. These rates are for legacy CAGIT and do not include additional authorized rates such as for jail operations.

The DLGF interprets current law and this bill as to include LPTRC in the calculation of maximum levies. So any rise or fall in LPTRC amounts that result from changes in CAGIT revenue would be reflected in the maximum levy just as they are currently. The rise or fall of certified shares used as levy replacement under current law has only a small effect on the maximum levy. The removal of certified shares from the maximum levy calculation would have a minimal impact. Overall the calculation change would have little impact on CAGIT counties and no impact on non-CAGIT counties.

Maximum Levy Adjustment - City of Goshen: This provision would direct the DLGF to increase the city of Goshen's maximum levy for each year beginning in CY 2012. The increase would equal the difference between (1) the city's 2009 cost for pre-1977 public safety pensions, and (2) the amount of state funds

received in 2009 to fund those pension payments plus any previously authorized levy increases.

The potential levy increase is about \$300,000 per year. The levy increase, if granted, would increase tax rates and could possibly increase circuit breaker losses for taxing all units located in the same taxing districts as the city and where the circuit breakers have been triggered.

Maximum Levy Adjustment - Jefferson County: This provision would permit Jefferson County to petition the DLGF for an increase to the county maximum levy. The DLGF could grant an increase if the Department finds that the county experienced a revenue shortfall because of an erroneous estimate of the effect of the supplemental standard deduction. Any increase would be limited to \$300,000. The levy increase, if granted, would increase tax rates and could possibly increase circuit breaker losses for taxing all units in the county in areas where the circuit breakers have been triggered.

Maximum Levy Adjustment- Fairfield Township: This provision would permit Fairfield Township in Tippecanoe County to request that the DLGF make an adjustment to the township's maximum levy. The amount of the adjustment may not exceed \$130,000. If requested, the DLGF would be required to make the adjustment for 2012 and up to three additional years. The levy increase would increase tax rates and could possibly increase circuit breaker losses for all taxing units located in the same taxing districts as Fairfield Township and where the circuit breakers have been triggered.

Tax Distribution For Funds Exempt From Circuit Breaker: Under current law, property tax levies imposed (1) as a result of a referendum, and (2) to service pre-2009 debt in Lake and St. Joseph Counties, are not currently considered when calculating a taxpayer's circuit breaker credit. When property tax collections are distributed to a taxing unit's funds, current law states that any reduction in collections must be applied to funds other than debt service and lease rentals.

Beginning retroactively in CY 2010 under this bill, the full amount of referendum levy and other exempt levy collections would be deposited into the proper fund, without regard to circuit breaker losses. Circuit breaker losses would be apportioned only among the non-exempt funds. So, circuit breaker losses would affect existing debt funds in counties other than Lake and St. Joseph Counties but would not affect referendum funds or pre-2009 debt funds in Lake and St. Joseph Counties. In addition, this provision would direct taxing units to make appropriations from other funds to pay debt service obligations if the available amount in the debt service fund is insufficient because of circuit breaker losses.

Tax Statements: Under current law, the amount billed under a provisional tax statement equals 50% of the previous year's taxes, subject to adjustments for new construction, damage to the property, and changes in credits, deductions, or local option income taxes. A reconciling tax statement also must indicate that liability for delinquent taxes and special assessments may appear on a provisional tax statement for the first installment.

Under this provision, the adjustments to both provisional tax bills and reconciling tax bills may also include current year special assessments and may exclude special assessments due in the previous year, but not due in the current year. Both the provisional and reconciling bills could include delinquent taxes and special assessments, penalties, and interest.

In addition, this provision would permit a county that is more than 2 years behind in billing to petition the DLGF to extend the deadline for paying the first 2011 property tax installment from May 10, 2011, to a date as late as July 1, 2011. This extension would apply only to LaPorte County.

Port Authority Property Taxes: Under current law, the DLGF may cancel property taxes assessed against real property owned by a county, township, city, or town. This provision would also permit the DLGF to cancel taxes assessed against real property owned by a municipal or county port authority.

The Hammond Port Authority received property tax bills for \$26,272 in 2010. This provision would allow, but not require, the DLGF to cancel these bills. If the bills are cancelled, the expected taxes would be forgone by the affected taxing units. The fiscal impact would depend on DLGF action.

Maximum Permissible Levies - School Bus Replacement: Under current law, the School Bus Replacement Fund is a levy-controlled fund. The levy limit depends on the estimated cost to replace the school's bus fleet over a 12-year period. Under this bill, the DLGF would set the maximum levy for taxes payable in CY 2012 based on reasonable needs and whether the school corporation transferred money from the fund to the rainy day fund in a previous year.

In CY 2011, the school bus replacement levy totaled \$105.3 M (not including schools in LaPorte County). From CY 2006 to CY 2011, the average annual increase in the levy was 6.3%. Current estimates for the AVGQ are 2.8% for taxes payable in CY 2013 and 2.4% in CY 2014. The growth in school bus replacement levies could be curtailed under this provision.

Property Tax Exemptions: Under this provision, owners of real and personal property located at certain Marion County addresses would receive an exemption from property tax for taxes payable in 2009 and 2010 if:

- 1) The owner files an exemption application and personal property return (if appropriate) before June 1, 2011;
- 2) The owner would have qualified for the exemption if it had been timely filed; and
- 3) The owner received an exemption for taxes due in the previous or following year.

Under this provision, the exemption would apply retroactively and the 2009 and 2010 tax bills would be cancelled. The taxes billed for both years for all of the subject properties amount to \$270,000. The local taxing units and school corporations located in the affected taxing districts would forego receipt of their share of the amount due.

Property Tax Exemption - Ice Skating Rink: Under this provision, an owner of real and personal property would receive an exemption from property tax for taxes payable in 2011 and 2012 if:

- 1) The property is an ice skating rink that is owned by a limited liability corporation and leased to a nonprofit corporation; and
- 2) The owner received a full or partial exemption for taxes due in a previous year.

One taxpayer has been identified as qualifying for an exemption under this provision. The taxes billed for 2011 total \$105,000. For 2011, the local taxing units and school corporation located in the affected taxing district would forego receipt of their share of the amount due. For 2012, the tax burden would be shifted to all other taxpayers.

Maximum Levy Adjustment - Lake Central Schools: This provision would permit the Lake Central School Corporation to request that the DLGF make an adjustment to the school's transportation fund maximum levy. The amount of the adjustment may not exceed \$700,000. If requested, the DLGF would be required to make the adjustment for 2012. The new levy would be the basis for the levy in future years. The levy increase would increase tax rates and could possibly increase circuit breaker losses for all taxing units located in the

same taxing districts as the school corporation and where the circuit breakers have been triggered.

Marion County Tax Levy: This provision would allow Marion County to impose an additional property tax levy in CY 2012 only. The levy increase would be limited to the difference between (1) the amount paid for child services after 2008, LESS (the December 31, 2008, unencumbered balance in the county's family and children's fund PLUS delinquent tax payments that would have been deposited into the fund if it had not been repealed), and (2) the county's 2009 levy for family and children's purposes. Property taxes collected from this levy would be deposited into the county general fund.

The potential levy increase is about \$5.8 M in CY 2012. The levy increase would increase tax rates and could possibly increase circuit breaker losses for taxing all units in the county in areas where the circuit breakers have been triggered.

Maximum Levy Adjustment - Allen County Townships: This provision would permit two townships – Washington and Lafayette Townships in Allen County – to petition the DLGF for a maximum levy increase to be effective for all years beginning with CY 2012. The increase would be limited to the difference between (1) the township's maximum levy in the year in which it used cash balances to reduce the levy, and (2) the township's 2011 maximum levy. If petitioned, the DLGF would be required to make the adjustment.

The potential increase for Washington Township is unclear under this provision. Lafayette Township would have a potential maximum increase of \$44,801. Levy increases, if granted, would increase tax rates and could possibly increase circuit breaker losses for all taxing units located in the same taxing districts as the townships and where the circuit breakers have been triggered.

TIF: Under current law, a redevelopment commission may designate a "designated taxpayer" in a TIF district. The taxes paid on the incremental assessed value of the business personal property that is located on the designated taxpayer's site is allocated to the TIF district. The commission may only designate a taxpayer if the taxpayer's property primarily consists of industrial, manufacturing, warehousing, research and development, processing, distribution or transportation related projects. In addition, this provision would allow the owner of regulated amusement devices to be a designated taxpayer.

This provision could create an increase of revenues to affected TIF areas. The capture of AV means that the AV would not be used to broaden the tax base. Therefore, tax rates would not decrease as they would normally with the infusion of new value. The actual impact depends on the level of investment and whether the investment would have been made with or without this provision.

Under current law, a redevelopment commission that wishes to expand its TIF allocation area must either get approval from the IEDC or make a finding that the existing area does not generate enough revenue to meet its obligations. The bill would remove these requirements.

Other Local Tax Provisions - Public Safety LOIT: Under current law, counties may adopt a public safety LOIT if they have also adopted either the property tax freeze LOIT or the property tax credit LOIT. The maximum public safety income tax rate is 0.50% in Marion County and 0.25% in all other counties. Revenue from the public safety LOIT is distributed to the county taxing unit and municipalities based on the total levies of the eligible taxing units. Under this bill, a county or municipality could only receive a distribution if that unit is carrying out or providing a public safety purpose.

Also under this provision, a fire department, volunteer fire department, or EMS provider that provides

services within the county and is operated by or serves a taxing unit that does not receive a public safety LOIT distribution may apply to the county council or county income tax council for a distribution from the public safety LOIT. If approved, the council may adopt a resolution that specifies the amount to be distributed to the applicant in the following year. The resolution would apply to only one year. A distribution under this provision would proportionately reduce the distributions made to the county unit and municipalities. The fiscal impact would depend on local action.

Twenty counties have imposed a public safety LOIT in 2011 with a total certified distribution of \$93.1 M. Of these 20 counties, 16 have adopted the tax under the CAGIT statute and 4 have adopted under the COIT statute. In CY 2011, counties will receive \$68.6 M while municipalities will receive \$24.5 M from the public safety LOIT.

White County Commission & Promotion Fund: The White County innkeeper's tax would generate an estimated \$181,570 in CY 2011, \$231,030 in CY 2012, and \$243,340 in CY 2013 at a tax rate of 5%. (Currently, the tax rate is 3%.) Portions of the revenue would be deposited into the newly created promotion fund and the existing lake enhancement fund. The following table shows the possible distribution of revenue that could occur at a tax rate of 5%.

White County Innkeeper's Tax: Total Revenue and Distribution at a Tax Rate of 5%			
Calendar Year	Lake Enhancement Fund	Promotion Fund	Total Revenue at 5% Rate
2011	\$108,940	\$72,630	\$181,570
2012	\$138,620	\$92,410	\$231,030
2013	\$146,000	\$97,340	\$243,340

Nashville Food and Beverage Tax Sunset: The bill would extend the sunset provision on the Nashville food and beverage tax by 10 years to January 1, 2022. Tax revenues are used for construction or renovation of Nashville public parking and restroom facilities. The tax generated \$137,023 in FY 2010.

Local Option Dog Tax: The bill would protect the revenue stream of a county or municipal ordinance adopted after December 31, 2006, and before February 1, 2007, that does not conform with the county option dog tax law (IC 6-9-39). Out of 52 Indiana counties surveyed, 6 have adopted a dog tax under IC 6-9-39. At least one county has a domestic animal (including dogs) ordinance in effect after June 30, 2006, that does not conform to IC 6-9-39.

Fire Protection Territories - Levying Tax Rates: Under this provision the property tax levy for a participating unit could increase or decrease relative to that of neighboring units. Under a uniform tax rate structure, the cost of providing services for a participating unit could be less than its tax levy. As a result, this unit would, in effect, be subsidizing neighboring units. This provision could bring the tax levies of the units more in line with their cost of service.

Under current law, the tax levied within a fire protection territory must either be uniform for all taxable property within the territory or uniform for all the taxable property of a participating unit within the territory.

Under this bill, uniform tax rates would be optional.

State Agencies Affected: Auditor of State; Office of Technology; Office of Management and Budget; Commission for Higher Education; Department of Education; Department of Local Government Finance; State Board of Accounts; Indiana Board of Tax Review; State Educational Institutions; Purdue University; Department of Natural Resources; Department of Administration; Indiana Economic Development Corporation; Department of Revenue; Legislative Council.

Local Agencies Affected: Political subdivisions; Boards of Aviation Commissioners; County and township assessors; County auditors; Civil taxing units and school corporations; Counties with local option income taxes; Hammond Port Commission; Marion County; Washington and Lafayette Townships in Allen County; Fairfield Township in Tippecanoe County; City of Goshen; Jefferson County; Marion County; Lake Central School Corporation; Fire Protection Territories; White County, Tippecanoe County (Wabash River Enhancement Corporation); Town of Nashville, Clark and Floyd County Innkeeper's Tax Board of Managers; Lake County Convention and Tourism Board.

Information Sources: www.transparency.in.gov; OFMA Income and Property Tax Databases; Micah Vincent, DLGF, 317-232-3777; State Budget Agency Reports of Certified Distributions, July 30, 2010 (COIT) and November 24, 2010 (CAGIT), <http://www.in.gov/sba/2363.htm>; White County Treasurer's Office, U.S. Bureau of Census; Legislative Services Agency and Association of Indiana Counties surveys of counties. Chris Smith, Legislative Liaison, DNR; Eric Shields, Legislative Liaison, IEDC, 317-234-3997.

Fiscal Analyst: Jim Landers, 317-232-9869; Jessica Harmon, 317-232-9854; Bob Sigalow, 317-232-9859; Diana Agidi, 317-232-9867; David Lusan, 317-232-9592; Chris Baker, 317-232-9851.